REMARKS

Claims 1 and 3-61 remain pending in the application.

35 USC 101 Rejection of Claims 1 and 55

The Office Action rejected claims 1 and 55 under 35 USC 101 as allegedly being directed toward non-statutory subject matter, specifically alleging that "the system can be embodied in software". The Applicants respectfully disagree.

35 USC 101 reads:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 55 recite a "**messaging system**". Claims 1 and 55 further recite a <u>server</u>, a plurality of <u>networks</u>, a <u>protocol gateway</u>, and a <u>communicator</u>. Claims 1 and 55 recite the useful features of being comprised of a "protocol gateway adaptively arranged between at least two of said plurality of said networks to segment a message communicated with an underlying wireless network protocol into multiple segments, and encapsulate said segments with a segment header."

Moreover, even if the claimed features are implemented in software, they are implemented in a <u>messaging system</u> – a clear hardware element.

The claims as written recite a "messaging system" that falls under the statutory category of a "machine". The Applicants respectfully request the rejection of claims 1 and 55 be withdrawn.

Claims 1, 3-10, 15 and 17-61 over Gleeson in view of Dunlop and Schuster

In the Office Action, claims 1, 3-10, 15 and 17-61 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 5,446,736 to Gleeson et al. ("Gleeson") in view of U.S. Patent No. 6,721,872 to Dunlop et al. ("Dunlop"), and in further view of U.S. Patent No. 6,785,261 to Schuster et al. ("Schuster"). The Applicants respectfully traverse the rejection.

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Claims 1, 3-10, 15 and 17-61 recite a **protocol gateway**, through which a message is communicated between a client application and a server application, to segment a message **communicated with an underlying wireless network protocol** into multiple segments, and encapsulate the segments with a **segment header**.

The Examiner relies on Schuster to allegedly disclose "a method and apparatus for facilitating correction of data loss in a data transmission system (see abstract). Schuster teaches a message divided into data packets and those packets including a packet header (col. 1 line 63-col. 2, line 7)." (see Office Action, page 4)

Schuster at col. 1, lines 63-col. 2, line 7 describes how packet switched packets are formed of multiple segments, and that they include a header. This is simply networking at its most basic level that lacks any relevance to the specific claimed element that performs encapsulation, i.e., a **protocol gateway**, and the specific item being encapsulated, i.e., a message communicated with an **underlying wireless network protocol**. Schuster fails to disclose a **protocol gateway**, much less through which a message is communicated between a client application and a server application, to segment a message **communicated with an underlying wireless network protocol** into multiple segments, and encapsulate the segments with a **segment header**, as recited by claims 1, 3-10, 15 and 17-61.

Thus, even if Schuster discloses what the Examiner alleged, Gleeson, Dunlop and Schuster, either alone or in combination, fail to disclose, teach or suggest a **protocol gateway**, through which a message is communicated between a client application and a server application, to segment a message **communicated with an underlying wireless network protocol** into multiple segments, and encapsulate the segments with a **segment header**, as recited by claims 1, 3-10, 15 and 17-61.

Moreover, the Examiner proposed to modify Gleeson with Schuster's packets from a packet switch network. (see Office Action, page 4) However, Schuster already discloses use of packets from a packet switch network. (see col. 1, lines 4-21). Thus, modifying Gleeson with Schuster's

packets from a packet switched network is <u>redundant, unnecessary</u> and a <u>moot point</u>.

Moreover, the Examiner motivation for modifying Gleeson with Schuster's message segmentation into multiple segments and a segment header is to <u>minimize transmission latency</u>. (see Office Action, page 5) However, segmenting a message into multiple segments and adding a segment header would <u>increase</u> latency – **not** <u>minimize</u> latency, as alleged. Segmenting a message and adding a segment header to the multiple segments increases the amount of information that must pass over a network, stressing a network's bandwidth capability and resulting in packets arriving at their destination with <u>greater latency</u>. Moreover, multiple segments must be re-assembled at their destination that further increases latency during collection of data packets, possible re-transmission of lost packets, and reassembly of the packets. All of these operations increase latency. Thus, the Examiner's motivation would have the **opposite result** of what the Examiner relies on as motivation to modify Gleeson.

Accordingly, for at least all the above reasons, claims 1, 3-10, 15 and 17-61 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 11-14 and 16 over Gleeson in view of Dunlop, Schuster, and Meyer

In the Office Action, claims 11-14 and 16 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Gleeson in view of Dunlop and Schuster, and in further view of U.S. Patent No. 6,778,099 to Meyer et al. ("Meyer"). The Applicants respectfully traverse the rejection.

Claims 11-14 and 16 recite a **protocol gateway**, through which a message is communicated between a client application and a server application, to <u>segment a message</u> **communicated with an underlying wireless network protocol** into multiple segments, and <u>encapsulate the segments</u> with a **segment header**. As discussed above, Gleeson, Schuster and Dunlop, either alone or in combination, fail to disclose, teach or suggest such features.

The Examiner relies on Meyer to allegedly make up for the deficiencies in Gleeson, Schuster and Dunlop to arrive at the claimed features. In particular, the Examiner relies on Meyer to allegedly disclose a data link layer and a physical layer that are together adapted to comply with an RIM protocol, an ARDIS protocol, a GPRS protocol, and a GSM protocol. (see Office Action, pages 15, 16 and 17) However, a thorough reading of Meyer reveals that he also fails to disclose a **protocol gateway**, much less through which a message is communicated between a client application and a server application, to segment a message communicated with an underlying wireless network protocol into multiple segments, and encapsulate the segments with a **segment header**, as recited by claims 11-14 and 16.

Gleeson, Dunlop, Schuster and Meyer, either alone or in combination, fail to disclose, teach or suggest a protocol gateway, through which a message is communicated between a client application and a server application, to segment a message communicated with an underlying wireless network protocol into multiple segments, and encapsulate the segments with a **segment header**, as recited by claims 11-14 and 16.

Accordingly, for at least all the above reasons, claims 11-14 and 16 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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